

Atty. Docket No.: 1054_P001US

PATENT

REMARKS

Applicant appreciates the time taken by the Examiner to review Applicant's present application. This application has been carefully reviewed in light of the Official Action mailed November 7, 2005. Applicant respectfully requests reconsideration and favorable action in this case.

REJECTIONS UNDER 35 U.S.C. § 112

Claims 46-55 have been rejected under 35 USC § 112 second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as his invention. The Examiner specifically states:

Claim 46, last line, "said particular client" lacks antecedent basis and is not clear.

Applicant's August 10, 2005 REMARKS have been reviewed, but are not convincing. It is noted that Applicant's reference to the 35 USC 103 citation was inadvertent. Applicant must provide adequate support for each new term introduced into a claim so its meets and bounds may be ascertained. As is, the Examiner cannot determine such.

The applicant respectfully submits that antecedent basis for "said particular client" is found in line 5 of Claim 46 as previously presented. In addition, this particular client is referenced throughout the specification, for example, Paragraph [0031] makes specific reference to "particular clients" that may "use the present invention to manage its inventory in the warehouse while the other business entities may continue to manage their inventory in a manner of their choice."

Thus, the applicant respectfully submits that the examiners assertion that "said particular client" lacks antecedent basis is improper in that antecedent basis is found previously in Claim 46 and within the specification.

Claims 47-55, as amended, depend from amended Claim 46, as such, Applicant respectfully requests the Examiner withdraw the rejections under 35 USC § 112 and allow Claims 46-55.

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REJECTIONS UNDER 35 U.S.C. § 103

Claims 46-55 stand rejected under 35 USC § 103 as being unpatentable over Diamond et al., U.S. Patent No. 6,370,515. The Examiner states:

Diamond discloses an inventory management system, e.g., 10, 62 through a global computer network, e.g. 48, comprising local databases, e.g. 63, a master database, e.g. 53, 66, and a product, e.g. demand factors, that may be geographically distributed. Diamond does not specifically disclose the terms of one server or local server.

Requirements for a Prima Facie Case of Obviousness

In order to establish a *prima facie* case of obviousness, Section 2143 of the MPEP requires that:

...three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Motivation to Combine

Addressing the first criteria, the MPEP prescribes in Section 706.02(j) that:

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985).

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See MPEP § 2144 - § 2144.09 for examples of reasoning supporting obviousness rejections.

In the most recent Action, the Examiner has not pointed out any teaching in the cited references that “expressly or impliedly suggest[s] the claimed invention.” Nor has the Examiner “present[ed] a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.” The only teaching of the implementation of a system for inventory management over a global computer network in this case, is in the Applicant’s own application. Thus, the Examiner’s rejection fails to meet the first criteria for a *prima facie* case of obviousness.

Reasonable Expectation of Success

The hypothetical combiner looking to Diamonds to create a system for inventory management over a global computer network, would find it difficult or impossible, to allow multiple users to access their inventory on demand, as is claimed in claim 46 as Diamonds only provides periodic customer reports on bulk materials.

Thus, the hypothetical combiner would find it impossible to use the combined technologies in the way claimed for the invention of the present application. As a result, the Examiner’s rejection fails to meet the second criteria for a *prima facie* case of obviousness.

Teaching or Suggestion of All Claim Limitations

The present application teaches, and all the claims of the present application claim, a system for inventory management over a global computer network. Diamonds does not teach all the claim limitations of the present application. The application of the claimed invention is to allow on-demand access of inventory within geographically diverse shared warehouses by a number of clients using these warehouses. Additionally, these warehouses are used to ship product directly to endusers – i.e customers of the clients that share the warehouses. Bulk shipping terminals, as is provided in Diamonds, are not used to deliver products to customers of clients that share the warehouse and inventory management system of the instant application. Rather, bulk shipping terminals are used to deliver bulk products to clients.

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Applicant respectfully submits that there is no motivation, teaching or suggestion to apply Diamonds to a direct marketing scenario. Therefore, the rejection on a combination of these references is inappropriate. Withdrawal of the rejection allowance of Claims 46-55 is respectfully requested.

Applicant respectfully submits that Diamond et al. can clearly be distinguished from the claimed invention. Diamond, et al. provides a system and method for automating and coordinating a bulk shipping terminal while the claimed invention shares an inventory management system and series of distributed warehouses (i.e. not chemical tanks) amongst a number of clients in order to achieve a more efficient utilization of resources.

Although Diamond may disclose an inventory management system implemented with a global computer network having local and mater databases, Diamond, et al. fails to teach a system and method for providing direct channel distribution that bypasses the distributors, middleman and retailers which use the bulk terminal automation system provided by Diamond, et al. Rather, the claimed invention provides particular clients the ability to establish and expand direct distribution and sales channels using a shared direct channel distribution system. Within Diamond, no such shared distribution system is described. This allows individual clients to expand their distribution of products on an incremental or variable cost basis. This is achieved by sharing the resources of the inventory management system as claimed in amended Claim 46. Applicant respectfully submits that amended Claim 46 more clearly calls out a shared system for inventory management.

Applicant further submits that Diamond, et al. alone or in combination fails to disclose a shared inventory system that allows individual clients to increase or expand their distribution incrementally on a variable costs basis.

Applicant respectfully submits that as the cited prior art fails to teach that multiple clients may share a direct channel distribution system that permits a business to expand distributions of its product on an incremental variable cost basis through increased efficiency realized by the sharing of resources in this case the system for inventory management. Applicant therefore respectfully requests that the Examiner reconsider and withdraw the rejections to allow claims 46-55.

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CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicant respectfully requests full allowance of Claims 46-55.

Should the Examiner have any questions or desire clarification of any sort, the Examiner is invited to telephone the undersigned at the number listed below. Please reference Attorney Docket No. 1054_P001US.

While Applicants believe no fee is due with the transmission of this Information Disclosure Statement, if any fees are due, the Commissioner is hereby authorized to charge Deposit Account No. 50-2240 of Koestner Bertani LLP.

Respectfully submitted,



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